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Frederic Plessis

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YOUNG & THOMPSON

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EXAMINER

EPSTEIN, BRIAN M

ART UNIT

PAPER NUMBER

3628

NOTIFICATION DATE

DELIVERY MODE

12/06/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/524,534	Applicant(s) PLESSIS ET AL.	
	Examiner BRIAN EPSTEIN	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2010 and 16 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14 and 16-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20050214 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

1. Claims 14-27 were previously pending in this application. Claims 14, 16-25, and 27 were amended, claim 26 was left as originally presented and claim 15 was canceled in the reply filed August 9, 2010. Therefore claims 14 and 16-27 are currently pending in this application.

Examiner thanks applicant for filing an interview summary on August 16, 2010 concerning a phone interview held August 2, 2010. Applicant notes on the bottom of page 3 of applicant's interview summary consideration of converting claim 14 to a method claim if such claimed subject matter is acknowledged to be patentable. Examiner respectfully notes that although examiner made the suggestion to convert claim 14 into method form, no agreement was reached concerning allowable features of independent claim 14 in light of the §103 and §112-2nd rejections below as to the claim. Please see below.

Response to Arguments

2. Applicant's arguments, see pages 18-19 of the Remarks, filed October 10, 2010, with respect to the rejections of claims 14, 16-23 and 27 under 35 U.S.C. §101 have been fully considered and are persuasive. The rejections of claims 14, 16-23, and 27 under §101 have been withdrawn in light of applicants amendments to independent claim 14. Examiner notes applicants arguments (Pages 20-21 of the Remarks) concerning claim 14 under §101 as per the *Hirshfeld* memorandum are irrelevant since

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claim 14 is not directed towards a process/method, but instead is directed towards a non transitory computer readable medium which when read by a computer causes a computer to perform a process and thus is directed towards an item of manufacture.

3. Applicant's arguments filed August 9, 2010 concerning the rejection of claim 14 under 35 U.S.C. §112-2nd Paragraph have been fully considered but they are not persuasive. Applicant generally argues the amendments to claim 14 overcomes examiners previous §112-2nd rejection since the relationship between nodes has been clarified. Examiner disagrees.

The first limitation requires a non transitory computer readable medium to control a computer to accept node selection from a library of nodes and then requires the computer to create a tree structure by accepting arcs that connect the selected nodes together (thus creating a tree of arcs/nodes). The computer then displays the created tree, converts the created tree and stores the created tree in memory. Although the language newly added to claim 14 arguably defines how the nodes are connected amongst themselves in light of the four types of nodes (root/father/child/ending), examiner argues claim 14 is still unclear as to what *functionality* is required by the non transitory computer readable medium. The new language to claim 14 merely describes what the nodes *are* but does not, in any way, provide limitation concerning what the nodes in fact do under control of the computer or provide limitation as to the computer readable medium building a tree with certain node characteristics. That is, claim 14 has been amended to merely recite what the nodes/roots are but have not been amended to more clearly define what functions the computer readable medium is required to have.

For example, claim 14 has been amended to recite "the root node forms a root in the tree structure." Such claim language does not describe/claim what function the root node is required to have. Claim 14 merely requires a computer readable medium to cause a computer to accept selection of nodes and then accept selection of arcs which connect nodes together in an ordered relationship.

Examiner emphasizes that since applicant is claiming a computer readable medium, the claim limitations must clearly/definitively define what functions are required to be performed by a computer in response to control by the claimed computer readable medium. Such functionality is not clearly recited in claim 14. Examiner emphasis applicant is claiming a computer readable medium which causes a computer to operate as an editor (emphasis added). The functionalities of the editor are not clearly/definitively recited.

Also, as previously noted on page 6 of the non final office action mailed May 19, 2010, it is not necessary for the functional steps to be claimed as being performed by the computer since it is clear via the preamble that the recording medium causes a computer to function as an editor by performing the claimed steps. The claim limitations can begin with the functional verb/step.

4. Applicant's arguments filed August 10, 2010 concerning the rejections of claims 16-23 and 27 under 35 U.S.C. §112-2nd have been fully considered but they are not persuasive. Applicant argues the amendments to the claims overcomes examiners previous §112-2nd rejections. Examiner disagrees.

For example, claim 16 now recites "accepting a selection of a first level father node from the node library of pre-stored nodes *and forming the first level father node in response to the first level father node being solely associated with an operation for activating child nodes....in response to receiving a new value for one of the consumption variables...*" The italicized language does not make logical sense. Examiner argues the consumption variables are not involved with the editor function of creating a costing tree. Therefore, examiner cannot determine how the first level father nodes are "formed" in response to any new value for consumption variables. As argued above concerning the rejection of independent claim 14 under §112-2nd, examiner notes the dependent claims must clearly recite the functionality created by the computer readable storage medium. Examiner cannot make such determination and therefore the claims which depend from claim 14 are indefinite.

5. Applicant's arguments filed August 9, 2010 concerning the rejections of claims 14 and 16-27 under 35 U.S.C. §103(a) have been fully considered but they are not persuasive. Examiner initially notes one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Baer teaches a tree editor including pre-stored nodes and arcs which connect those nodes (see, Column 3, lines 3-20). Baer teaches a process where users, using a graphical interface, define a tree structure by selecting pre-stored nodes and connecting selected nodes by arcs/links which define ordering of the nodes (see Column 3, lines 3-

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20). Baer also teaches the constructed tree is shown via GUI (Abstract; Column 4, lines 32-47). Applicants arguments concerning Baer's failure to describe electronic editors for allowing users to build pricing calculations have been considered by are not relevant since Baer has been applied only to teach node libraries and editors for connecting nodes via arcs which indicate an order in which nodes calculations are carried out.

As per the Shaver reference, applicant argues Shavers pricing tree is merely a set of rules recorded in a database. Shaver teaches building a pricing tree of price components (Paragraph 0041). A product resulting price is generated based on a calculation of components in the pricing tree (Paragraph 0015; Paragraph 0043). Shaver further teaches price components/adjustments may be applied in a predetermined sequence (Paragraph 0016; Paragraph 0047). Applicant's arguments concerning the form of Shavers pricing tree has been considered but examiner respectfully disagrees. Since Shaver teaches a plurality of pricing components which perform some calculation on a product price and also teaches ordering the pricing components, Shaver teaches nodes (pricing components) connected by arcs (ordering). Shaver also teaches the pricing tree is applied by a front end application for product pricing (Paragraph 0031).

6. Applicant's arguments with respect to the rejection of claim 24 under 35 U.S.C. §112-2nd Paragraph have been considered but are moot in view of the new ground(s) of rejection. Please see below.

Claim Rejections - 35 USC § 112-2nd

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 14, 16-23 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 has been amended to recite "said tree structure defining an order in which said calculating operations are carried out by the electronic costing system." Examiner notes claim 14 previously requires that arcs which connect the nodes define an order in which calculating operations are carried out where the nodes themselves cause execution of a calculation operation. As a result, the above quoted language does not make sense.

Claim 14 is further rejected since examiner cannot determine what processes/functionalities are required by the "creating a tree structure" step. The definitions of the arcs and nodes do not appear to further limit the functional step of creating a tree structure by connecting selected nodes to each other by accepted arcs. That is, the step of creating a tree structure appears to merely require accepting arcs to connect the selected nodes. Examiner cannot determine whether the descriptions of the arcs and nodes are in any way involved with the computer readable medium driven function of creating a tree structure by accepting arcs connecting nodes to one another (emphasis added).

As previously noted in the non final office action mailed May 19, 2010, examiner cannot determine whether the root/father/child nodes individually perform a calculation operation and/or whether each is explicitly required by the selecting and connecting steps since the selecting and connecting steps do not discuss which nodes are selected / connected.

Claims 16-23 and 27 are rejected under similar reasoning. For example, please see examiners arguments above concerning dependent claim 16.

9. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 24 recites that each node is associated with a pricing calculation operation in the third paragraph of the claim. Claim 24 has been amended to now recite that each of the father and child nodes are associated with calculation operations and the root node merely forms a root of a tree structure. Examiner does not follow how all nodes are associated with pricing operations but then each node is redefined in a way not as previously set up in the claim language. Examiner respectfully requests applicant to clearly recite the functionalities of each node type so that the system limitation functionality for an electronic calculating unit can be clearly determined.

For example, the calculating unit limitation discusses executing operations associated with the tree structure whereby consumption variables are passed through the tree structure by successfully executing conditional activation operations of the father/child nodes. Conditional activation operations do not appear in the descriptions

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of each node type. As a result, examiner cannot determine what functional requirements are necessary for the claimed electronic calculating unit. Examiner reads claim 24 in light of claim 14.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 14, 16-20 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (US 5,414,836) in view of Shaver et al. (US 2003/0158784).

13. As per **claims 14 and 24 and 25**, Baer teaches a non transitory tangible computer readable recording medium storing a program of instructions executable by a computer to function as an electronic editor, said computer being controlled to function as the electronic editor by performing the steps of:

- a. accepting nodes selected from a node library of pre-stored nodes stored in the computer (Abstract; Column 3, lines 3-20; Column 4, lines 32-47);
- b. creating a tree structure by accepting arcs connecting the selected nodes to one another, the arcs defining by an ordered relationship an order in which said calculating operations are carried out (Abstract; Column 3, lines 3-20), and;
- c. displaying on a screen in graphic form said tree structure (Abstract; Column 3, lines 1-20; Column 4, lines 32-47).

Baer does not explicitly teach but Shaver does teach wherein each node causes execution of a calculating operation by an electronic costing system to establish a price of a service (Abstract; Paragraph 0019; Paragraph 0041; Paragraph 0048); automatically converting the created tree structure displayed in graphic form into a format directly readable by the electronic costing system (Paragraph 0028; Paragraph 0031), and; storing the converted tree structure in an information storing means (Paragraph 0028; Paragraph 0057).

It would have been obvious to one of ordinary skill in the art at the time of invention to have incorporated, wherein each node causes execution of a calculating operation by an electronic costing system to establish a price of a service; automatically converting the created tree structure displayed in graphic form into a format directly readable by the electronic costing system, and; storing the converted tree structure in an information storing means, in accordance with the teachings of Shaver in order to produce costing formulas using graphical user interfaces to aid in production speed

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since so doing could be performed readily and easily by any person of ordinary skill in the art with neither undue experimentation nor risk of unexpected results.

14. As per **claim 16**, Baer further teaches accepting a selection of a first level father node from the node library of pre-stored nodes and forming the first level father node (Column 5, lines 6-11; Column 9, lines 14-29; Column 5, lines 30-42) in response to the first level father node being solely associated with an operation for activating child nodes of said first level father node in response to receiving a new value for one of the consumption variables processed by a calculation operation (Column 5, lines 6-11; Column 9, lines 14-29; Column 5, lines 30-42), and; forming a connection order between said computer formed first level father node and said corresponding child nodes by accepting arcs connecting the computer formed first level father node to the child nodes of said computer formed first level father node, the arcs defining by an ordered relationship, an order in which said calculating operations are carried out (Column 3, lines 1-27).

15. As per **claim 17**, Baer does not explicitly teach but Shaver does teach accepting a selection of a first level father node from the node library of pre-stored nodes and form the first level father node in response, the first level father node being solely associated with an operation for activating child nodes of the first level father node and the calculation operation associated therewith at predetermined time intervals, the corresponding first level father node activating the corresponding child nodes at predetermined time intervals for the operation associated with the corresponding child nodes (Paragraphs 0028-0029; Paragraph 0020; Abstract), and; forming a connection

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order between said computer formed first level father node and the child nodes of said first level father node by accepting arcs connecting the computer formed first level father node the arcs defining an ordered relationship, an order in which said calculating operations are carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of a first level father node from the node library of pre-stored nodes and form the first level father node in response, the first level father node being solely associated with an operation for activating child nodes of the first level father node and the calculation operation associated therewith at predetermined time intervals, the corresponding first level father node activating the corresponding child nodes at predetermined time intervals for the operation associated with the corresponding child nodes, and; forming a connection order between said computer formed first level father node and the child nodes of said first level father node by accepting arcs connecting the computer formed first level father node the arcs defining an ordered relationship, an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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16. As per **claim 18**, Baer does not explicitly teach but Shaver does teach, accepting a selection of a processing child node from the node library of pre-stored nodes and forming the processing child node in response, the processing child node being solely associated with a calculating operation for calculating a new value from the values of the consumption variables and pre-existing calculated variables and for allocating the calculated new value to one of a consumption variable, a pre-existing variable, and a new calculated variable (Paragraph 0029; Paragraph 0049; Paragraph 0052), and; forming a connection order between said computer formed processing child node and at least one node of said tree structure by accepting arcs connecting the computer formed processing child node to a node of the tree structure, the arcs defining an ordered relationship, an order in which said calculating operation is carried out by the electronic costing system (Paragraph 0029; Paragraph 0049; Paragraph 0052; Paragraph 0048; Paragraph 0019; Paragraph 0072; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of a processing child node from the node library of pre-stored nodes and forming the processing child node in response, the processing child node being solely associated with a calculating operation for calculating a new value from the values of the consumption variables and pre-existing calculated variables and for allocating the calculated new value to one of a consumption variable, a pre-existing variable, and a new calculated, and; forming a connection order between said computer formed processing child node and at least one node of said tree structure by accepting arcs connecting the computer formed processing child node to a

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node of the tree structure, the arcs defining an ordered relationship, an order in which said calculating operation is carried out by the electronic costing system as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

17. As per **claim 19**, Baer does not explicitly teach but Shaver does teach, accepting a selection of a decision node from the node library of pre stored nodes and forming the decision node in response, the decision node being solely associated with a conditional activation operation of all corresponding child nodes and the calculating operation associated therewith, using the value of a consumption variable or a calculated variable (Paragraphs 0048-0049; Paragraph 0052), and; forming a connection order between said computer formed decision node and the child nodes of said computer formed decision node by accepting arcs connecting the computer formed decision node to the child nodes of said computer formed decision node, the arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of a decision node from the node library of pre stored nodes and forming the decision node in response, the decision node being solely associated with a conditional activation operation of all corresponding child nodes and

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the calculating operation associated therewith, using the value of a consumption variable or a calculated variable, and; forming a connection order between said computer formed decision node and the child nodes of said computer formed decision node by accepting arcs connecting the computer formed decision node to the child nodes of said computer formed decision node, the arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

18. As per **claim 20**, Baer does not explicitly teach but Shaver does teach accepting a selection of a split node from the node library of pre-stored nodes and forming the split node in response, the split node being solely associated with an operation for extracting from the value of a consumption variable, a range of values either between a lower limit and an upper limit or outside the lower and upper limits, the child nodes processing the range of values extracted (Paragraph 0069; Paragraph 0072; Paragraph 0049), and; forming a connection order between the computer formed split node to the child nodes of said computer formed split node by accepting arcs connecting the computer formed split node to the child nodes of said computer formed split node, the arcs defining by an ordered relationship an order in which said calculating operations are carried out by the

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electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of a split node from the node library of pre-stored nodes and forming the split node in response, the split node being solely associated with an operation for extracting from the value of a consumption variable, a range of values either between a lower limit and an upper limit or outside the lower and upper limits, the child nodes processing the range of values extracted, and; forming a connection order between the computer formed split node to the child nodes of said computer formed split node by accepting arcs connecting the computer formed split node to the child nodes of said computer formed split node, the arcs defining by an ordered relationship an order in which said calculating operations are carried out by the electronic costing system as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

19. As per **claim 22**, Baer does not explicitly teach but Shaver does teach, accepting a selection of an ending node from the node library of pre-stored nodes and forming the ending node in response, the ending node being solely associated with a calculation operation for calculating a price and with an operation for stopping the costing system from passing through the tree structure (Paragraphs 0057-0058; Paragraph 0047;

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Paragraphs 0028-0029), and forming a connection order between said computer formed ending node and a node of the tree structure by accepting an arc connecting the computer formed ending node to the node of the tree structure, the arc defining, by an ordered relationship, an order in which said calculating operation is carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of an ending node from the node library of pre-stored nodes and forming the ending node in response, the ending node being solely associated with a calculation operation for calculating a price and with an operation for stopping the costing system from passing through the tree structure, and; forming a connection order between said computer formed ending node and a node of the tree structure by accepting an arc connecting the computer formed ending node to the node of the tree structure, the arc defining, by an ordered relationship, an order in which said calculating operation is carried out by the electronic costing system as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

20. As per **claims 23 and 26**, Baer does not explicitly teach but Shaver does teach, accepting a selection of a parameterisable node from the node library of pre-stored nodes and forming the parameterisable node in response, the parameterisable node

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being associated with a pre-defined parameterisable calculating operation (Paragraph 0029; Paragraph 0049; Paragraph 0052), and; forming a connection order between the computer formed parameterisable node and a father node by accepting an arc connecting the computer formed parameterisable node to the father nodes of said computer formed parameterisable node, the arcs defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system (Paragraphs 0048-0049; Paragraph 0072; Paragraph 0019; Paragraph 0050), and parametering the parameterisable operation associated with the computer formed parameterisable node by accepting parameters (Paragraph 0029; Paragraph 0049; Paragraph 0052).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include, accepting a selection of a parameterisable node from the node library of pre-stored nodes and forming the parameterisable node in response, the parameterisable node being associated with a pre-defined parameterisable calculating operation, and; forming a connection order between the computer formed parameterisable node and a father node by accepting an arc connecting the computer formed parameterisable node to the father nodes of said computer formed parameterisable node, the arcs defining by an ordered relationship an order in which said calculating operation is carried out by the electronic costing system, and parametering the parameterisable operation associated with the computer formed parameterisable node by accepting parameters as taught by Shaver in the computer readable medium of Baer, since the claimed invention is merely a combination of old

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elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

21. As per **claim 27**, Baer does not explicitly teach but Shaver does teach associating conditional activation operations with said father nodes, said conditional activation operations for calculating the price of the service includes conditional calculating rules having a form of: if condition 1 exists, then action 1 takes place where condition 1 is a logical function of which the result is true or false and action 1 is a mathematical function of the calculation of the price associated with a corresponding child node (Paragraph 0049).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include associating conditional activation operations with said father nodes, said conditional activation operations for calculating the price of the service includes conditional calculating rules having a form of: if condition 1 exists, then action 1 takes place where condition 1 is a logical function of which the result is true or false and action 1 is a mathematical function of the calculation of the price associated with a corresponding child node as taught by Shaver in the computer readable medium of Baer since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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22. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baer et al. (US 5,414,836) in view of Shaver et al. (US 2003/0158784) as applied to claim 14 above, and further in view of Bera (US 6,636,880).

23. As per **claim 21**, Baer further teaches forming a connection order between the computer formed converter and a node of the tree structure (Abstract; Column 3, lines 3-20). Baer in view of Shaver does not explicitly teach but Bera does teach, accepting a selection of a converter from the node library of pre stored nodes and forming the converter in response, the converter being a node solely associated with a calculating operation for unit conversion of a calculated value (Column 1-2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include accepting a selection of a converter from the node library of pre stored nodes and forming the converter in response, the converter being a node solely associated with a calculating operation for unit conversion of a calculated value as taught by Bera in the computer readable medium of Baer in view of Shaver, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Conclusion

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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25. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN EPSTEIN whose telephone number is (571)270-5389. The examiner can normally be reached on Mon-Fri 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/B. E./
Examiner, Art Unit 3628
November 22, 2010

/JOHN W HAYES/

Supervisory Patent Examiner, Art Unit 3628